UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1991/NGO/8
29 July 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-third session
Item 8 of the provisional agenda

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by Food First Information and Action Network, a non-governmental organization in consultative status (roster)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[16 July 1991]

Indicators and the realization of economic, social and cultural human rights

1. Based on its work for the human right to food, the FIAN International Secretariat makes the following suggestions and observations concerning the conceptual questions of indicators on the realization of human rights in general and of economic, social and cultural human rights in particular.

2. It must be kept in mind that the current work on indicators for deprivation can only be a prelude to the urgent task of determining indicators on the state of implementation and realization of a human right, which must include as a central issue the questions of States' obligations and respective violations.

GE.91-12541/1050H

READEX
FICHE

3. We consider the state of implementation of a human right to be the degree to which States implement their obligations relative to that human right to prevent or address redressable deprivation related to the norm of the respective human right.

4. The implementation can be supported by the introduction of agreed procedures accessible to every individual to get the State moving on its obligations. Elements of such procedures can be reports, hearings, complaints, and at best legal procedures.

5. Under the Covenant on Economic, Social and Cultural Rights the States parties have the general obligation to take steps with a view to "achieving progressively the full realization of the rights recognized". We believe that the full realization of a human right is reached once old redressable deprivations have disappeared and any new such deprivations relative to the respective norm can be prevented or remedied effectively by a legal procedure.

6. The following could be the role of indicators in the process of progressing towards the full realization of a human right or in maintaining the full realization of a right:

1. A State implements a human right if it implements the specific obligatory measures in a given situation. Otherwise, it violates the respective human right. There is a need for standards and instruments to determine whether or not or to what extent human rights-related obligations are executed.

2. Most indicators proposed concerning the realization of rights are merely indicators of the level of deprivation or indicators of the level of satisfaction of needs.

3. The level of deprivation is an indicator of the lack of implementation of a right if and only if this deprivation can be immediately redressed by a Government. In many cases, however, a closer look at the nature of obligations is necessary.

4. Indicators for violations and States' performance in the field of human rights depend in general on the profile of obligations related to the right and on the policy options available.

7. For purposes of clarification we offer two comments on the notions of "redressable deprivation" and "States' obligations".

8. Redressable deprivation related to the norm of a human right. People need to be protected from being arbitrarily arrested. People need to be protected from hunger. People need to organize freely, people need food, work and education, etc. Human rights contain a claim on a norm, i.e. a standard level of satisfaction of the need. Norms are sometimes narrowly standardized but sometimes they are vague and in need of further specification. In the latter case we take it for granted that at least a "minimum threshold" is an acceptable standard for the norm. Deprivation is

the difference between the norm and the actual level of satisfaction of a need. A deprivation that can be abolished by States' action is redressable.

9. For the different human rights it must be clear what a deprivation is. What is an arbitrary arrest? When is a person malnourished? Indicators can sometimes be used for (a) setting standard levels and for defining deprivation; (b) for indicating the individual extent; or (c) the statistical incidence of deprivation. The change in time of these indicators on deprivation can be an analytical tool for evaluating certain government actions.

10. On the other hand, for a malnourished person, for example, and even for policy-makers the question of the details of defining and measuring deprivation in terms of indicators and the respective extent of malnutrition (i.e., whether there are only 21 per cent malnourished or 28 per cent) are of limited use. What is important for the policy-maker to know is which policy options are available to address deprivation and what are his Government's obligations. For the malnourished (and hopefully others as well) the main question is how to move the Government to act on its obligations. The indicators on deprivation should therefore be seen in their proper (important but limited) perspective for the implementation of human rights.

11. States' obligations. States are obliged to act on redressable deprivation. The specification of obligations of States is one of the most important tasks at hand in the field of human rights. It is important to recall the three types of obligations, i.e. obligations R (to respect), P (to protect) and F (to fulfil). Type R addresses deprivations caused by recent or imminent State actions, P addresses redressable deprivation caused by recent or imminent action of third parties, F Concerns all other redressable deprivations (e.g. those having historical or natural causes). Most human rights have a particular profile of obligations of the different types. In civil and political rights type R is often dominant, with types P and F still important in some rights. In economic, social and cultural rights obligations R and P are important but are sometimes overlooked in favour of type F. A Government fails to implement a human right if it fails to execute a related obligation. If this obligation is type R it can be said that the right is violated, if it is type P we can say the right is negated, for type F we say the right is denied.

12. Obligations R can be immediately carried out, since if the State can deprive, it can also stop depriving. Hence for this particular type of deprivation/obligation the indicator on deprivation is also an indicator for the human rights violation involved. Thus, the incidence of arbitrary arrest, the number of political prisoners or of peasants evicted by a government project without adequate rehabilitation can be taken as an indicator for the extent of the respective human rights violation. For obligations P this identification of indicators for deprivation and violation is a bit more difficult: normally we would assume that the States have the means to protect their citizens against third parties. Finally, type F is a rather complicated type. An analysis has to be made of the measures or policy options available. The maximal percentage reduction of deprivation possible through options available could be called the "indicator of

redressability" in this situation. The percentage reduction due to the option taken divided by the "indicator of redressability" could provide an indicator of the level of fulfilment of the respective obligation. The calculations necessary to obtain this indicator depend not only on the indicators of deprivation but on a lot of political and economic theory and on the specific situation in the State. It goes without saying that instead of scrutinizing every government decision there is a need to specify decisions for monitoring (e.g. certain key issues).

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1991/NGO/9
29 July 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-third session
Item 6 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by Habitat International Coalition, a non-governmental organization in consultative status (roster)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[26 July 1991]

1. We refer to an earlier written submission, document E/CN.4/1991/NGO/34 dated 12 February 1991, which sought to draw the attention of the Commission on Human Rights to the widespread phenomenon of evictions across the world. The present submission seeks to substantiate the arguments put forward earlier by relating cases of evictions that have occurred recently and information on evictions that are planned during the course of 1991. This submission is organized on the basis of some of the rationales that continue to be used by Governments to justify the forced removal of persons from their homes in complete violation of their human right to housing.

GE.91-12544/6884a

Evictions to "clean the urban environment"

2. On 18 June 1991 it was reported that 2,000 slum-dwellers were to be evicted and their homes destroyed in Bangkok, prior to the convening of an IMF and World Bank meeting to be held in the Thai capital in October 1991. 1/ The authorities responsible for the eviction of the slum-dwellers' homes, located near a new convention centre where the largest-ever meeting of this sort to be held in Bangkok will take place, have justified the eviction on the grounds that the delegates to the meeting should have "good scenery", as well as the aim of creating a "good environment". Officials have also claimed that the slum would be "a good hiding place for terrorists". Earlier attempts to "hide" the slums by placing a high wall around them have apparently proved ineffective. The "Human Rights in Thailand Report" states that "Thailand (is) among the countries with the most violent methods to clear away slums. For years slum people across Bangkok have faced demolition of their dwellings by the authorities, threats from gangsters and even arson, apart from normal legal procedures of eviction". 2/

3. As the United Nations Conference on Environment and Development in Rio de Janeiro, Brazil, set for mid-1992, draws closer, the authorities, seeking to present a clean and beautiful city to the international delegates, have embarked on a series of campaigns aimed at "cleansing" the city of homeless children who call the streets home. Over 4,500 street children have been murdered during the past three years.

4. In preparation for the celebrations surrounding the 500th anniversary of the landing by Columbus in 1492, over 15,000 families (at least 100,000 persons) have been forcibly removed from their homes in the cities of Santo Domingo and Santiago, in the Dominican Republic. 3/

5. In December 1990, the United Nations Committee on Economic, Social and Cultural Rights declared the Dominican Republic to be in contravention of article 11 of the Covenant on Economic, Social and Cultural Rights because of its eviction programme (see the Committee's report on its fifth session, document E/1991/23-E/C.12/1990/8).

Evictions for "urban redevelopment"

6. During the course of 1991, in Madras, India, 118 different slums are to be removed from "private" lands. This would involve the demolition of 14,542 homes affecting a population of 103,742 persons. 4/

7. During November and December 1990, over 44,000 people were forcibly removed from their homes which were subsequently demolished in the Nairobi areas of Kibagare, Kwambiu Village, Kaptagat Road, Kileshwa and Gigiri. In addition, 1,431 business premises were demolished during this period, resulting in job losses for approximately 4,200 persons. On 18 May 1990, more than 2,000 people were violently evicted from the squatter settlement Muoroto, also in Nairobi. During the ensuing violence, seven people were killed and dozens injured. Women and children were beaten by policemen while bulldozers razed the settlement to the ground. 5/ Nairobi is the location of the

United Nations Centre for Human Settlements (UNCHS), which made no comments during the course of these evictions and has consistently refused to take a stand on this global process.

Evictions due to "overcrowding"

8. On 23 May 1991 it was reported that the authorities in Ho Chi Minh City, Viet Nam, had the intention to forcibly remove 150,000 persons from the city of four million, in an alleged effort to relieve overcrowding. 6/

9. Over 800,000 Sudanese internal refugees living on the periphery of Khartoum are to be sent back to their places of origin and evicted from their settlements. 7/ International aid agencies working in the city have consistently expressed their opposition to the plan.

Evictions justified due to "land being below sea level"

10. Following heavy rains in the Maroko district of Lagos, Nigeria, the Government issued an eviction order on 6 July 1990, resulting one week later, on 14 July, in the forcible eviction of over 300,000 persons. The community of Maroko had existed since 1958. Since this massive eviction, only insufficient arrangements have been made for relocation or compensation. Most victims of the eviction remain essentially homeless. Legal attempts at preventing this eviction were unsuccessful. 8/ One year following this removal, the evicted land remains empty and unutilized.

11. During 1990 there were at least three armed actions on the part of the Panamanian armed forces and the United States army to dislodge families from their homes. Between January and March 1990, a total of 1,100 families were forcibly evicted. 9/ During the United States invasion of Panama in December 1989 thousands of Panama's poorest citizens were displaced from their homes as a result of bombing and subsequent bulldozing. 10/

12. Although precise numbers are difficult to obtain, it is widely accepted that many thousands of people were effectively evicted by bombs dropped by United States planes over Iraq during the Gulf War, which destroyed an equal number of civilian homes.

Evictions and international events

13. Large-scale evictions almost invariably precede major international events. Such was the case in New Delhi, India, prior to the Asian Games 1982; in Vancouver, Canada, for the Expo 86; in Seoul, South Korea, for the 1988 Summer Olympics; in Beijing, China, for the Asian Games 1990 as well as the examples of Bangkok and Rio de Janeiro mentioned above. For the 1988 Olympics alone 720,000 persons were forcibly evicted from their homes in Seoul. 11/ Attempting to hide the urban poor from foreign visitors cannot be considered a solution to homelessness and inappropriate housing policies.

Evictions through demolition

14. More than 300 persons in the Wabag Settlement in Lae, Papua New Guinea, were evicted from their homes on 15 May 1991, following the issuance of an eviction order by the Morobe Provincial Government. No alternative housing sites were provided, nor was any compensation paid. 12/

15. During early 1991 in the capital of occupied Tibet the Chinese authorities bulldozed and dug up the barkhor area, one of the holiest of Buddhist sites. In Lhasa the Tibetan quarter, which prior to the 1949 invasion constituted the entire city, has been systematically reduced by the Chinese to a mere 2 per cent of the city. 13/

16. These examples of recent and impending evictions are the few that have come to our notice and are representative of a much wider and insidious process which is destroying the lives and identities of millions of people around the world. They represent clear and continuing violations of the internationally recognized rights to adequate housing, to freedom of movement, to privacy and to the right to choose one's residence. Habitat International Coalition urges the Sub-Commission on Prevention of Discrimination and Protection of Minorities to act urgently to encourage States to halt this practice of violating one of the most basic of human rights.

Notes

1/ BBC World Service, 18 June 1991, 13.00 GMT.

2/ "Human Rights in Thailand Report", vol. 13, No. 1-2, January-June 1989.

3/ See: Somocurcio and Florian Borbon, "El Proceso de Reordenamiento Urbano y los Desalojos en Santo Domingo", 1989 and COPADEBA, "Remodelacion Urbana y Desalojos en Santo Domingo", 1990.

4/ See: Statement released by Tamil Nadu Slum Clearance Board (TNSCB), March 1991 in Madras, India.

5/ See: Weekly Review, 1 June 1990, published in Kenya.

6/ BBC World Service, 23 May 1991, 16.00 GMT.

7/ NRC Handelsblad, 22 April 1991.

8/ See: "Gone: Maroko Slum Crushed", Sunday Concord, 15 July 1990; "Marok Evacuation: Landlords Count Losses", Guardian Express, 18 July 1990; "Maroko: Legal Bids Fail to Stop Demolition", The Guardian, 14 July 1990; "Pluie d'expulsions sur Lagos", ENDA, July 1990.

9/ CODEHUCA and CONADEHUPA, "Panama Delegations Report", No. 2, 16 April 1990.

10/ See: BRECHA: Monthly publication of the Commission for the Defense of Human Rights in Central America (CODEHUCA), January-February 1990, No. 6 and "Invasion Impact Lingers in Panama Slum", International Herald Tribune, 4-5 August 1990.

11/ See: Asian Coalition for Housing Rights (ACHR), Urban Poor and Housing Rights in South Korea and Hong Kong (Fact-Finding and Assessment Mission to South Korea and Hong Kong), 7-18 September 1990; Disposable People: Forced Evictions in South Korea (Catholic Institute for International Relations, 1988).

12/ "Settlers Watch as Bulldozer Flattens Homes", Post Courier, 16 May 1991; "Lae Forced Evictions Upset Shelter Group", Post Courier, 10 May 1991.

13/ See: Tibet Information Network, "Reconstruction in the Old City of Lhasa", 10 November 1990.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1991/NGO/10
1 August 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-third session
Items 16 and 17 (a) of the provisional agenda

COMTEMPORARY FORMS OF SLAVERY

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS. PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in consultative status (roster)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[23 July 1991]

GE.91-12585/6890a

1. The international community has adopted the principles that slavery and forced labour must be abolished (International Convention on Civil and Political Rights, art. 8) and that children and young persons should be protected from economic and social exploitation (International Convention on Economic, Social and Cultural Rights, art. 10). The Convention on the Rights of the Child further specifies rights granted to children, including the right of the child to be protected from performing any work that is hazardous or harmful to the child's development (art. 32), and requiring States parties to the Convention to adopt measures to prevent trafficking in children (art. 35)

2. In late 1990 and early 1991, the Lawyers Committee for Human Rights conducted three fact-finding missions to the Dominican Republic and Haiti to investigate claims of trafficking in Haitian children and forced labour on Government-owned and -operated sugar cane plantations (bateyes) in the Dominican Republic.

3. In interviews with children in the bateyes, the Lawyers Committee heard an oft-repeated tale of false promises and deceit. Recruiters hired by the Dominican State Sugar Council (CEA) tell Haitian children that there are easy jobs in the Dominican Republic. One child told the Lawyers Committee that the recruiter told him that he "would pick tomatoes and gather eggs in a hen house" and would be paid in United States dollars. After crossing the border, the children are handed over to other representatives of the CEA. The CEA then assigns the children to State-owned cane plantations.

4. The Lawyers Committee interviewed dozens of children ranging in age from 8 to 18. Many children do not know where they are and have never cut cane before. Once in the batey, the children must cut cane to survive. Pay is in the form of a voucher which can only be used in the company stores. Cheating when weighing the cane and the stores' practice of discounting the face value of the vouchers by 20 per cent help insure that wages barely allow the cutters to purchase enough food to subsist.

5. Armed guards patrol the fields and roads in rural areas to prevent Haitians and Dominicans of Haitian descent from escaping their assigned bateyes. Dominican soldiers also assist in this work, especially in the border areas. Numerous cane cutters told Lawyers Committee representatives that their clothes are taken away at night to discourage escape.

6. The Lawyers Committee visited numerous bateyes throughout the country and documented the sub-human living conditions endured by the cane cutters. Living quarters are filthy and overcrowded. Our representatives noted a complete absence of potable water, cooking facilities, electricity, and medical care; a few bateyes had latrines constructed by private groups.

7. We have analysed the Government's efforts to implement on October 1990 decree purportedly granting human rights guarantees to all migrant workers, including Haitians. The Lawyers Committee concludes that while the October 1990 decree was a belated admission of serious human rights violations in the cane communities and created expectations that material improvements would be swift and evident, fundamental rights violations persist.

8. The Lawyers Committee has received reports from contacts in the Dominican Republic and in Haiti that the Dominican Government has reacted very aggressively to criticisms of its human rights violations. On 13 June, 1991, two days after hearings before the United States Congress on the human rights situation on Dominican cane plantations, President Balaguer issued a decree that could lead to massive deportations. The decree calls for the repatriation of all foreigners under 16 and over 60 involved in the cane harvest. A senior government official acknowledged that in just one day the Government found at least 50 Haitian children in State cane plantations. He also admitted that the Government knew the names of the buscones who recruit the Haitians and the Dominican officials involved. This admission completely undermines the Government's denials of the existence of child cane cutters or recruiters.

9. While we welcome the Government's efforts to repatriate children who were deceitfully and sometimes forcibly recruited from Haiti, mass deportations of others, including children born in the Dominican Republic and the elderly, many of whom have resided for years in the Dominican Republic, is not the appropriate response to the human rights violations against Haitians and Dominico-Haitians in the Dominican Republic. The Dominican Republic should focus its energies on ending worker rights violations and reforming its practices in the sugar industry rather than making scapegoats out of Haitians and Dominico-Haitians.

10. Moreover, the June decree is also being violated. Our contacts, who have interviewed people as they enter Haiti from the Dominican Republic, report that many of those being "repatriated" by the Dominican Government include men, women and children who are Dominican citizens under the Dominican Constitution. There is persuasive evidence that families are being split up as a result of these repatriations, which for many people are in fact "deportations." Some have stated that the Dominican authorities destroyed their documents proving Dominican citizenship and forced them to come to Haiti. Those interviewed also reported that Dominican soldiers were rounding up Haitians and those who "look" Haitian and were forcing them to leave. The Government has expelled elderly residents who have not received pensions or other social security payments due them, despite the decree's provisions requiring these payments; in some cases those expelled have arrived at the border with just the clothes on their backs. It is also evident that many of those being forced to leave are between the ages of 16 and 60 which is a clear violation of the June 1991 decree.

Recommendations

11. The Lawyers Committee for Human Rights recommends that the following steps be implemented immediately:

- The Dominican Government should cease immediately any direct or indirect efforts to recruit child labourers (children under 18).

- The Dominican Government should officially declare cane cutting to be "dangerous and unhealthy work" under article 229 of the Dominican

Labour Code and absolutely prohibited for anyone under 18 years old. The Government should impose severe penalties, including prison terms and substantial fines, on those who are engaged in trafficking of children or who employ children under the age of 18 in any aspect of cane cutting.

- The Government should end immediately forced labour in the cane communities. All workers and their families must have guaranteed freedom of movement. The Government must prohibit all employees of the CEA and others working in the cane communities from carrying firearms. The cane communities must be demilitarized.

- The Dominican and Haitian Governments should begin talks as soon as possible to remedy these continuing human rights violations and to establish an orderly repatriation process for those Haitians currently living in the Dominican Republic who wish to return to Haiti.